

REMARKS/ARGUMENTS

Claims 6, 8-17, 21-26 and new claims 27 -30 are pending in the application, with Claim 21 being withdrawn pursuant to a restriction requirement, and Claims 1-5 and 18-20 having been cancelled. New claims 27 – 30 have been added to round out the scope of coverage of the invention. Reconsideration and a withdrawal of the rejections are hereby respectfully requested in view of the above amendments and following remarks.

Claims 6, 8, 9, 10-17 and 22-25 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Aurio (US 2006/0099324) in view of Tye (5,308,636). This rejection is respectfully but strenuously traversed, and reconsideration and a withdrawal of the rejection is hereby respectfully requested.

Applicant's invention is not obvious in view of the cited references. The Examiner contends that Aurio discloses a composition containing viscous fibers, such as konjac glucomannan (citing [0024]) in combination with viscosity-lowering proteins ([0033]), and that these ingredients are combined together by mixing and then boiling in water ([0085]), and further that foods may be made from this admixture ([0068]-[0069]). The Examiner acknowledges that Aurio fails to mention dough in the cited paragraphs relied on by the Examiner. The Examiner contends that dough is used in the preparation of many baked goods, even though the Examiner admits that dough is not specifically disclosed or mentioned in the cited Aurio reference. The Examiner also acknowledges that Aurio also fails to disclose imitation seafood. The Examiner attempts to remedy the Aurio deficiencies by reliance on Tye, asserting that Tye uses konjac mannan in the formulation of imitation seafood (citing Example 9 of Tye) and contending further that it would have been obvious to one of ordinary skill in the art to prepare the imitation

seafood of Tye and have it on hand with dough goods of Aurio in order to prepare a more well-balanced meal.

The Examiner further acknowledges that the references fail to disclose insoluble fibers. However, the Examiner considers that although the references are deficient of a disclosure or suggestion to add insoluble fibers to dough, that adding them would have been an obvious way to enhance the nutritional quality of the food product, in particular for the baked goods of Aurio. The Examiner also contends that though gas bubbles are not mentioned, the bubbles would have been expected from the mixing action of Aurio. The Examiner in addition contends that baking soda is an obvious ingredient in baked goods. Finally, with respect to claim 14, the Examiner contends it would have been obvious to alter the particular seafood flavoring to vary the taste of the food.

The cited references, alone or when combined as the Examiner proposes, fail to teach, suggest or disclose the Applicant's presently claimed invention. Applicant's invention relates to a food product which comprises an admixture of konjac glucomannan and animal based protein concentrate wherein the admixture may be formed by heating the konjac glucomannan and animal based protein concentrate to above 100°Celsius.

Applicant's invention addresses and overcomes the problem of gumminess of konjac glucomannan in order to provide a useful admixture and food composition comprised of it. Applicant's invention relates to embodiments which process konjac glucomannan in mechanical and/or chemical (including enzymatic) methods in order to decrease the "gumminess" traditionally associated with konjac glucomannan. Longchain associations of the glucomannan fibers traditionally make konjac glucomannan less than appealing for use. For example, as Applicant indicated, one of the drawbacks of the

traditional gumminess associated with konjac glucomannan is increased chewing in order to ingest konjac glucomannan foods. This is undesirable and heretofore has rendered konjac glucomannan unsuitable for many food products. Applicant's invention addresses this problem by providing a novel solution where the ratio of konjac glucomannan and animal based protein concentrate are mixed in varying ratio by volume and mixed to provide a relatively homogeneous mixture. Improved food products, namely, an admixture of konjac glucomannan and animal based protein which has been heated to above 100°Celsius is provided by the Applicant's present invention to produce a less gummy material which is suitable for use in various foods without the drawbacks associated with the prior traditional konjac glucomannan gummy textures. (See Applicant's specification p. 6, line 6 – p. 7, line 2.) Applicant's invention is a novel improvement over the cited references.

The references relied on by the Examiner fail to teach, suggest or disclose the admixture recited in Applicant's claims. In fact, the Examiner asserts as a basis for rejection, that in Aurio, what is disclosed is the combining of the ingredients together by mixing and then boiling in water (referring to paragraph [0085]). Aurio is not what the Applicant's invention discloses or claims. Considering the Aurio reference, what appears to be disclosed is adding to a cold, hot or boiling medium at a temperature from about 70° C to about 80° C. In that same paragraph cited and relied by the Examiner, Aurio specifies that the dried ingredients with the compositions of the invention may be hydrated separately before being mixed. Applicant specifies heating to a temperature above 100° C and that is not disclosed or suggested in Aurio. In fact, turning to paragraph [0087] of Aurio, what is disclosed are preferred temperatures of 15°C to about

25°C for adding dried soluble viscous fiber to a viscosity-lowering protein dispersion (e.g., hydrated protein). The mentioning of low temperature, room temperature or high temperature is disclosed in Aurio to be a range from about 5°C to about 60°C; not Applicant's recited temperature of over 100°C.

Not only does Aurio fail to disclose or suggest the Applicant's claimed food comprising an admixture of konjac glucomannan and animal based protein concentrate, but also, the examples of Aurio utilizing konjac gum are each disclosed to take place at a temperature of about 25°C.

The cited references of Aurio and Tye fail to disclose or suggest Applicant's claimed invention. The Examiner's reliance on Aurio, in particular [0086], does not anticipate or render Applicant's claimed invention obvious. Rather, Aurio merely discloses that the dry ingredients of the compositions of the invention may be hydrated separately before being mixed. That paragraph in Aurio does not disclose an admixture of Applicant's konjac glucomannan and animal based protein concentrate in a ratio by volume which provides a predetermined texture which admixture has been heated to above 100°Celsius. Even considering Aurio, what Aurio does disclose is that in order to obtain a hydrated soluble viscous fiber dispersion (what the Examiner appears to consider to include konjac glucomannan [0024]), states that the soluble viscous fiber may be added to cold, hot or boiling aqueous medium, the preferred temperature specified from about 70°C to about 80°C. What is discussed in paragraph [0086] of Aurio is hydrating the viscosity-lowering protein, which Aurio provides as an example of which is collagen hydrolysate dispersion prepared by stirring less than five minutes in a cold aqueous medium. Aurio discusses boiling aqueous medium that is not in conjunction with an

admixture of konjac glucomannan and animal based protein concentrate as Applicant's claimed invention specifies. Rather, Aurio discusses a dried soluble viscous fiber being added to a viscosity-lowering protein dispersion. The discussion is of a hydrated protein or soluble viscous fiber dispersion is mentioned in Aurio with a low temperature, room temperature or a high temperature, the range of which is about from 5°C to about 60°C. There is no suggestion or disclosure of heating an admixture of konjac glucomannan and animal based protein concentrate to above 100° Celsius. One of ordinary skill in the art would not have been led by the teachings of Aurio to arrive at the Applicant's present invention. For these reasons, Aurio fails to teach, suggest or disclose the Applicant's present invention.

The Examiner also attempts to cite Tye for its alleged use of konjac mannan in the formulation of imitation seafood (referring to Tye's Example 9). For the same reasons set forth above, the Applicant's invention is not disclosed or suggested by the further reference of Tye, even when taken with Aurio. The Examiner contends that gas bubbles are not mentioned in the citation to Aurio. Applicant submits that its claimed food product comprising dough with konjac glucomannan and animal based protein where gas bubbles have been introduced into the dough using mechanical or chemical methods is not disclosed or suggested in the cited references. In fact, Aurio discloses a drink (see claims 28, 37, 43, and 46), and fails to disclose a dough, and more particularly, fails to disclose a dough having the introduction of gas bubbles called for by Applicant's claim. Therefore, though the Examiner contends introduction of gas bubbles would be obvious, Aurio fails to disclose or suggest Applicants claimed dough in the first place.

With respect to the Examiner's contention that it would have been obvious to prepare the imitation seafood referred to by Tye and have it on hand with dough goods of Aurio in order to prepare a more well-balanced meal, this argument fails for two reasons. First, the Examiner admits that Aurio does not mention or disclose dough or dough goods. Therefore, Applicant's claimed invention is not disclosed or suggested by the cited references. Second, Applicant's invention is directly contrary to Example 9 of Tye, which the Examiner cites in support of the rejection. Applicant discloses a functional-like, low carbohydrate imitation seafood with mechanical features and improved texture and flavor in Applicant's specification in Example VI, at pages 9 and 10. Applicant specifically states that previous prior art examples of imitation seafood are primarily made from various sugars and/or starches for flavoring, binding, volumes, and the like. (Id. at p.10) Applicant goes on to state that with the Applicant's preferred seafood embodiment, however, those sugars, and/or starches are eliminated. (Id.) Therefore Applicant's claimed invention, unlike the cited references provides desirably lower-carbohydrate embodiments. Tye, contrary to what is disclosed and claimed as the Applicant's present invention, discloses surimi in conjunction with potato starch. Tye is consistent with the prior art, but not the Applicant's present invention. For these reasons Tye, alone or together with Aurio fails to disclose or suggest Applicant's claimed invention.

Claim 22 of Applicant's invention recites a food product selected from imitation seafood comprising konjac glucomannan, animal based protein concentrate, predetermined seafood flavoring, and one or more binding agents. Applicant has provided new claim 28 to more clearly and particularly recite that the imitation seafood

contains konjac glucomannan in a major amount relative to any sugars and/or starches. Applicant notes that the specification provides that the preferred seafood embodiments eliminate sugars and/or starches. Claims 29 and 30 have been added to further distinguish the Applicant's invention by reciting elimination of sugars and starches.

Claim 26 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Tye.

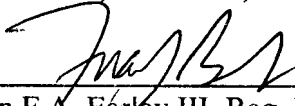
Applicant respectfully traverses the rejection for the same reasons as those set forth above.

For the reasons set forth above, Applicant submits that the present claims, as currently amended, recite non-obvious embodiments of the invention which are not taught, suggested or disclosed by the references cited and relied upon by the Examiner.

If necessary, an appropriate extension of time to respond is respectfully requested.

The Commissioner is authorized to charge any additional fees which may be required to Patent Office Deposit Account No. 05-0208.

Respectfully submitted,
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